UNITED NATIONS

HRI

International Human Rights Instruments

Distr.
GENERAL

HRI/GEN/2/Rev.1/Add.1
18 April 2002

Original: ENGLISH

COMPILATION OF GUIDELINES ON THE FORM AND CONTENT OF REPORTS TO BE SUBMITTED BY STATES PARTIES TO THE INTERNATIONAL HUMAN RIGHTS TREATIES

Addendum

This document contains the guidelines issued by the Committee on the Rights of the Child regarding the initial reports to be submitted in accordance with the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict; and on the sale of children, child prostitution and child pornography.

GE.02-41176 (E) 140502

Introduction

1. Pursuant to article 8, paragraph 1, of the Optional Protocol, States parties shall, within two years following the entry into force of the Protocol for the State party concerned, submit a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Optional Protocol. Thereafter, pursuant to article 8, paragraph 2, of the Optional Protocol, States parties shall include in the reports they submit to the Committee on the Rights of the Child in accordance with article 44, paragraph 1 (b), of the Convention any further information with respect to the implementation of the Optional Protocol. States parties to the Optional Protocol who are not parties to the Convention shall submit a report every five years after the submission of the comprehensive report.

2. The Committee may, in the light of article 8, paragraph 3, of the Optional Protocol, request from States parties further information relevant to the implementation of the Optional Protocol.

3. Reports should provide information on the measures adopted by the State party to give effect to the rights set forth in the Optional Protocol and on the progress made in the enjoyment of those rights and should indicate the factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the Optional Protocol.

4. Copies of the principal legislative texts and judicial decisions, administrative and other relevant instructions to the armed forces, both of a civil and a military character, as well as detailed statistical information, indicators referred to therein and relevant research should accompany reports. In reporting to the Committee, States parties should indicate how the implementation of the Optional Protocol is in line with the general principles of the Convention on the Rights of the Child, namely non-discrimination, best interests of the child, right to life, survival and development, and respect for the views of the child. Moreover, the process of preparation of the report should be described to the Committee, including the involvement of governmental and non-governmental organizations/bodies in its drafting and dissemination. Finally, reports should indicate the date of reference used when determining whether or not a person is within an age limit (for instance, the date of birth of the person concerned or the first day of the year during which the person concerned reaches that age).

Article 1

5. Please provide information on all measures taken, including of a legislative, administrative or other nature, to ensure that members of the armed forces who have not attained the age of 18 years do not take a direct part in hostilities. In this respect, please provide information notably on:

(a) The meaning of "direct participation" in the legislation and practice of the State concerned;

(b) The measures taken to avoid a member of the armed forces who has not attained the age of 18 years being deployed or maintained in an area where hostilities are taking place and the obstacles encountered in applying these measures;

(c) When relevant, disaggregated data on members of the armed forces below the age of 18 years who were taken prisoner, despite not having participated directly in hostilities.

Article 2

6. Please indicate all the measures taken, including of a legislative, administrative or other nature, to ensure that persons who have not attained the age 18 years are not compulsorily recruited into the armed forces. In this regard, reports should provide, information on, inter alia:

(a) The process of compulsory recruitment (i.e. from registration up to the physical integration into the armed forces), indicating the minimum age linked to each step and at what point in that process recruits become members of the armed forces;

(b) The documents considered reliable which are required to verify age prior to acceptance into compulsory military service (birth certificate, affidavit, etc.);

(c) Any legal provision enabling the age of conscription to be lowered in exceptional circumstances (e.g. state of emergency). In this respect, please provide information on the age it can be lowered to and the process for and conditions of that change;

(d) For States parties where compulsory military service has been suspended but not abolished, the minimum age of recruitment set for compulsory military service and how, and under what conditions, compulsory service can be reactivated.

Article 3

Paragraph 1

7. Reports should contain the following:

(a) The minimum age set for voluntary recruitment into the armed forces, in accordance with the declaration submitted upon ratification or accession or any change thereafter;

(b) When relevant, disaggregated data (for example, by gender, age, region, rural/urban areas and social and ethnic origin, and military ranks) on children below the age of 18 years voluntarily recruited into the national armed forces;

(c) When relevant, the measures taken pursuant to article 38, paragraph 3, of the Convention on the Rights of the Child to ensure that in recruiting those persons who have attained the minimum age set for voluntary recruitment but who have not attained the age of 18 years, priority is given to those who are oldest. In this respect, provide information on the measures of special protection adopted for the recruits under 18 years old.

Paragraphs 2 and 4

8. Reports should provide information on:

(a) The debate which has taken place in the State party prior to the adoption of the binding declaration and the people involved in that debate;

(b) When relevant, the national (or regional, local, etc.) debates, initiatives, or any campaign aimed at strengthening the declaration if it set a minimum age lower than 18 years.

Paragraph 3

9. With regard to the minimum safeguards that States parties shall maintain concerning voluntary recruitment, reports should provide information on the implementation of these safeguards and indicate, among other things:

(a) A detailed description of the procedure used for such recruitment, from the expression of intention to volunteer through to the physical integration into the armed forces;

(b) Medical examinations foreseen before volunteers can be recruited;

(c) The documentation required to verify the age of the volunteers (birth certificate, affidavit, etc.);

(d) Information that is made available to the volunteers, and to their parents or legal guardians, allowing them to formulate their own opinion and to make them aware of the duties involved in the military service. A copy of any materials used for this purpose should be annexed to the report;

(e) The effective minimum service time and the conditions for early discharge; the application of military justice or discipline to recruits under 18 and disaggregated data on the number of such recruits being tried or in detention; the minimum and maximum sanctions foreseen in case of desertion;

(f) The incentives used by the national armed forces for encouraging volunteers (scholarships, advertising, meetings at schools, games, etc.).

Paragraph 5

10. Reports should provide information on:

(a) The minimum age of entry into schools operated by or under the control of the armed forces;

(b) Disaggregated data on schools operated by or under the control of the armed forces, including their number, the type of education provided and the proportions of academic education and military training in the curricula; length of the education; academic/military personnel involved, educational facilities, etc.;

(c) The inclusion in the school curricula of human rights and humanitarian principles, including in areas relevant to the realization of the rights of the child;

(d) Disaggregated data (for example, by gender, age, region, rural/urban areas and social and ethnic origin) on the students attending these schools; their status (members or not of the armed forces); their military status in the case of a mobilization or of an armed conflict, a genuine military need or any other emergency situation; their right to leave such schools at any time and not to pursue a military career;

(e) The measures taken to ensure that school discipline is administered in a manner consistent with the child's human dignity, and any complaint mechanisms available in this regard.

Article 4

11. Please provide information on, inter alia:

(a) The armed groups operating on/from the territory of the State party or with sanctuary on its territory;

(b) The status of any negotiations between the State party and armed groups;

(c) Disaggregated data (for example, by gender, age, region, rural/urban areas and social and ethnic origin, time spent in the armed groups, and time spent participating in hostilities) on children who have been recruited and used in hostilities by armed groups and on those who have been arrested by the State party;

(d) Any written or oral commitment made by armed groups not to recruit and use children below the age of 18 in hostilities;

(e) Measures adopted by the State party aimed at raising awareness amongst armed groups and within communities of the need to prevent the recruitment of children below the age of 18 and of their legal obligations with regard to the minimum age set in the Optional Protocol for recruitment and participation in hostilities;

(f) The adoption of legal measures which aim at prohibiting and criminalizing the recruitment and use in hostilities of children under the age of 18 by armed groups and relevant judicial decisions;

(g) The programmes (e.g. birth registration campaigns) to prevent children who are at highest risk of recruitment or use by armed groups, such as refugee and internally displaced children, street children, orphans, from being so recruited or used.

Article 5

12. Please indicate those provisions of the national legislation or of international instruments and international humanitarian law applicable in the State party, which are more conducive to the realization of the rights of the child. Reports should also provide information on the status of ratification by the State party of the main international instruments concerning children in armed conflict and on other commitments undertaken by the State party concerning this issue.

Article 6

Paragraphs 1 and 2

13. Indicate the measures adopted to ensure the effective implementation and enforcement of the provisions of the Optional Protocol within the jurisdiction of the State party, including information on:

(a) Any review of domestic legislation and amendments introduced;

(b) The legal status of the Optional Protocol in national law and its applicability before domestic jurisdictions, as well as, when relevant, the intention of the State party to withdraw existing reservations made to the Optional Protocol;

(c) The governmental departments or bodies responsible for the implementation of the Optional Protocol and their coordination with regional and local authorities, as well as with civil society;

(d) The mechanisms and means used for monitoring and periodically evaluating the implementation of the Optional Protocol;

(e) Measures adopted to ensure the training of peacekeeping personnel on the rights of the child, including the provisions of the Optional Protocol;

(f) The dissemination in all relevant languages of the Optional Protocol to all children and adults, notably those responsible for military recruitment, and the training offered to all professional groups working with and for children.

Paragraph 3

14. When relevant, please describe all measures adopted with regard to disarmament, demobilization (or release from service), and the provision of appropriate assistance for the physical and psychological recovery and social reintegration of children, taking due account of the specific situation of girls, including information on:

(a) The children involved in that procedure, on their participation in such programmes, and on their status with regard to the armed forces and armed groups (e.g. when do they stop being members of the armed forces or groups?); the data should be disaggregated by, e.g., age and sex;

(b) The budget allocated to these programmes, the personnel involved and their training, the organizations concerned, cooperation among them, and participation of civil society, local communities, families, etc.;

(c) The various measures adopted to ensure the social reintegration of children, e.g. interim care, access to education and vocational training, reintegration in the family and community and relevant judicial measures, taking into account the specific needs of the children concerned, depending notably on their age and sex;

(d) The measures adopted to ensure confidentiality and protection of children involved in such programmes from media exposure and exploitation;

(e) The legal provisions adopted to criminalize the recruitment of children and whether that crime comes within the competence of any specific justice-seeking mechanisms established in the context of conflict (e.g. war crimes tribunal, truth and reconciliation bodies); the safeguards adopted to ensure that the rights of the child as a victim and as a witness are respected in these mechanisms in light of the Convention on the Rights of the Child;

(f) The criminal liability of children for crimes they may have committed during their stay with armed forces or groups and the judicial procedure applicable, as well as safeguards to ensure that the rights of the child are respected;

(g) When relevant, the provisions of peace agreements dealing with the disarmament, demobilization, and/or physical and psychological recovery and social reintegration of child combatants.

Article 7

15. Reports should provide information on cooperation in the implementation of the Optional Protocol, including through technical cooperation and financial assistance. In this regard, reports should provide information, inter alia, on the extent of the technical cooperation or financial assistance which the State party has requested or offered. Please indicate if the State party is in a position to provide financial assistance and describe the multilateral, bilateral or other programmes that have been undertaken with that assistance.

D. Initial reports under the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*

Guidelines regarding initial reports to be submitted by States parties under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

Adopted by the Committee at its 777th meeting (twenty-ninth session) on 1 February 2002

I. INTRODUCTION

1. Pursuant to article 12, paragraph 1, of the Optional Protocol, each State party shall, within two years following the entry into force of the Optional Protocol for that State party, submit a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Optional Protocol. Thereafter, pursuant to article 12, paragraph 2, of the Optional Protocol, States parties shall include in the reports they submit to the Committee on the Rights of the Child in accordance with article 44, paragraph 1 (b), of the Convention any further information with respect to the implementation of the Optional Protocol. States parties to the Optional Protocol that are not parties to the Convention shall submit a report every five years.

2. The Committee may, in the light of article 12, paragraph 3, of the Optional Protocol, request from States parties further information relevant to the implementation of the Optional Protocol.

3. Reports should provide information on:

(a) The legal status of the Optional Protocol in domestic law and its applicability in domestic jurisdictions;

(b) When relevant, the intention of the State party to withdraw existing reservations made to the Optional Protocol;

(c) The governmental departments or bodies competent for the implementation of the Optional Protocol and their coordination with regional and local authorities as well as the civil society, the business sector, the media, etc.;

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* Contained in CRC/OP/SA/1 entitled *Guidelines regarding initial reports to be submitted by States parties under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, which were adopted by the Committee on the Rights of the Child at its 777th meeting (twenty-ninth session) on 1 February 2002.

(d) The dissemination to the public at large, including children and parents, of information, through all appropriate means, education and training, about the provisions of the Optional Protocol;

(e) The dissemination of the Optional Protocol and the appropriate training offered to all professional groups working with and for children and all other relevant groups (immigration and law enforcement officers, social workers, etc.);

(f) The mechanisms and procedures used for the periodic evaluation of the implementation of the Optional Protocol and the main challenges encountered so far.

4. In reporting to the Committee, States parties should indicate how the implementation of the Optional Protocol is in line with the general principles of the Convention on the rights of the Child, namely non-discrimination, best interests of the child, right to life, survival and development, and respect for the views of the child. The States parties also should elaborate on how and to what extent the implementation of the Optional Protocol contributes to the implementation of the provisions of the Convention on the Rights of the Child, in particular articles 1, 11, 21, 32, 33, 34, 35 and 36 (see preamble to the Optional Protocol). Moreover, the process of preparation of the report should be described to the Committee, including the involvement of governmental and non-governmental organizations/bodies in its drafting and dissemination.

5. Moreover, *for all areas raised in these guidelines*, the Committee invites States parties to provide it with:

(a) Information on the progress made in the enjoyment of the rights set forth in the Optional Protocol;

(b) An analysis of the factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the Optional Protocol;

(c) Information on the budget allocated to the various activities of the State party related to the Optional Protocol;

(d) Detailed disaggregated data;

(e) Copies of the principal legislative, administrative and other relevant texts and judicial decisions and relevant research.

II. PROHIBITION OF THE SALE OF CHILDREN, CHILD PORNOGRAPHY AND CHILD PROSTITUTION

6. Please provide information on existing criminal or penal laws and regulations covering and defining the acts and activities enumerated in article 3, paragraph 1, of the Optional Protocol. In this respect, please provide information on:

(a) The age limit used for defining a child in the definition of each of these offences;

(b) The penalties which apply to each of these offences and what the aggravating or attenuating circumstances applicable to them are;

(c) The Statute of Limitation for each of these offences;

(d) Any other acts or activities which are criminalized under the penal or criminal laws of the State party and which are not covered by article 3, paragraph 1, of the Optional Protocol;

(e) The liability of legal persons for the acts and activities enumerated in article 3, paragraph 1, of the Optional Protocol, indicating the definition of a legal person in the State party; and

(f) The status, under the criminal or penal law of the State party, of attempts to commit and complicity or participation in any of the offences referred to previously.

7. With regard to adoption (art. 3, para. 1 (a) (ii)), please indicate the bilateral and multilateral agreements which are applicable to the State party and how the State party ensures that all persons involved in the adoption of the child act in conformity with these international agreements.

III. PENAL/CRIMINAL PROCEDURE

Jurisdiction

8. Please indicate the measures adopted, including of a legislative, judicial and administrative nature, to establish the State party's jurisdiction over the offences referred to in article 3, paragraph 1, of the Optional Protocol when:

(a) These offences are committed in its territory or on board a ship or aircraft registered in the State party;

(b) The alleged offender is a national of the State party or a person who has his/her habitual residence in its territory;

(c) The victim is a national of the State party;

(d) The alleged offender is present in its territory and it does not extradite her/him to another State party on the ground that the offence has been committed by one of its nationals. In that case, please indicate if an extradition request is required prior to the State party establishing its jurisdiction.

9. Please indicate any other measures at the national level, including of a legislative, judicial and administrative nature, which establish other rules concerning criminal jurisdiction by the State party.

Extradition

10. Please provide information on the State party's extradition policy related to the offences referred to in article 3, paragraph 1, of the Optional Protocol with specific attention to the various situations enumerated in article 5 of the Optional Protocol. For each situation relevant to the State party, in light of the disaggregated data requested under paragraph 5 (d) of these guidelines, please indicate the number of extradition requests received from or sent to the States concerned, and provide disaggregated data about the offenders and the victims (age, sex, nationality, etc.). Please also provide information on the length of the procedure, and on cases of extradition requests which have been sent or received and which did not succeed.

Seizure and confiscation of goods and proceeds and closure of premises

11. Please provide information on the measures adopted, including of a legislative, judicial and administrative nature, related to:

(a) The seizure and confiscation of goods and proceeds referred to in article 7 (a) of the Optional Protocol;

(b) The closing, on a temporary or definitive basis, of premises used to commit offences as provided for in article 3, paragraph 1, of the Optional Protocol.

IV. PROTECTION OF THE RIGHTS OF CHILD VICTIMS

12. In light of articles 8, 9, paragraphs 3 and 4, of the Optional Protocol, please provide information on the measures, including of a legislative, judicial and administrative nature, that have been adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol at all stages of the criminal justice process while ensuring the rights of the accused to a fair and impartial trial. Please indicate the measures adopted:

(a) To ensure that the best interests of the child is a primary consideration in the relevant domestic legislation and regulations governing the treatment of child victims by the criminal justice system;

(b) To ensure that criminal investigations are initiated even in cases where the actual age of the victim cannot be established and indicate the means used for this determination;

(c) To adapt the procedures so they are child sensitive, with special regard to the dignity and worth of the child and her/his cultural background, including the procedures used for investigation, interrogation, trial and cross-examination of child victims and witnesses; the right of a parent or guardian to be present; the right to be represented by a legal adviser or to apply for free legal aid. In that respect, please indicate what the legal consequences are for a child who has committed an offence under the law applicable to her/him as a direct result of the practices prohibited under the Optional Protocol;

(d) To inform the child during the whole of the legal process and indicate the persons responsible for this task;

(e) To allow the child to express her/his views, needs and concerns;

(f) To provide appropriate support services to child victims, including psychosocial, psychological and linguistic support at every step of legal proceedings;

(g) To protect, as appropriate, the privacy and identity of child victims;

(h) To provide, in appropriate cases, for the safety of child victims, as well as of their families, witnesses on their behalf, and individuals/organizations dealing with the prevention and/or protection and rehabilitation of child victims from intimidation and retaliation;

(i) To ensure that all child victims have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible and to avoid unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation; and

(j) To ensure that child victims receive all appropriate assistance, including for their full social reintegration and full physical and psychological recovery.

V. PREVENTION OF THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

13. In light of articles 9, paragraphs 1, 2 and 5, and 10, paragraph 1, of the Optional Protocol, please provide information on:

(a) The measures, including of a legislative, judicial and administrative nature, and the policies and programmes adopted to prevent the offences referred to in the Optional Protocol. Reports should also give information on children concerned by these preventive measures and on the measures used to particularly target children who are especially vulnerable to such practices;

(b) The means used to raise awareness within the population at large about the offences prohibited under the Optional Protocol. Please provide disaggregated information, including on:

(i) The various types of awareness, educational and training activities;

(ii) The public concerned;

(iii) The involvement of governmental bodies and non-governmental organizations, the business sector, media professionals, etc.;

(iv) The participation of children/child victims and/or communities;

(v) The scope of these activities (local, regional, national and/or international);

(c) The measures adopted, including of a legislative, judicial and administrative nature, to effectively prohibit the production and dissemination of material advertising the offences described in the Optional Protocol, as well as the mechanisms established to monitor the situation.

VI. INTERNATIONAL ASSISTANCE AND COOPERATION

Prevention

14. In light of article 10, paragraph 3, of the Optional Protocol, please provide information on the activities of the State party to promote international cooperation to address the root causes, particularly poverty and underdevelopment, which contribute to the vulnerability of children to the sale of children, child prostitution, child pornography, and child sex tourism.

Protection of victims

15. In light of article 10, paragraph 2, of the Optional Protocol, please provide information on international cooperation to assist child victims in their physical and psychological recovery, social reintegration and repatriation.

Law enforcement

16. In light of articles 6 and 10 of the Optional Protocol, please provide information on the assistance and cooperation provided by the State party at all steps/parts of the penal or criminal procedure with regard to the offences as provided in article 3, paragraph 1, of the Optional Protocol (detection, investigation, prosecution, punishment and extradition proceedings). In light of article 7 (b) of the Optional Protocol, please provide information on requests received from another State party for seizure or confiscation of goods or proceeds referred to in article 7 (a) of the Optional Protocol.

17. Please indicate the relevant bilateral, regional and/or multilateral agreements, treaties or other arrangements which the State party concerned is party to, and/or any relevant domestic legislation in that respect. Finally, please indicate what cooperation/coordination has been set up between the State party's authorities, national and international non-governmental organizations, and international organizations.

Financial and other assistance

18. With reference to international cooperation, mentioned above, (paras. 14-17), please provide information on the financial, technical or other assistance provided and/or received through existing multilateral, bilateral or other programmes that have been undertaken to that end.

VII. OTHER LEGAL PROVISIONS

19. Please indicate any relevant provisions of domestic legislation and international law in force in the State concerned which are more conducive to the realization of the rights of the child. Reports should also provide information on the status of ratification by the State concerned of the main international instruments concerning sale of children, child prostitution, child pornography and child sex tourism and on other commitments undertaken by that State concerning this issue, and on their implementation and challenges encountered.